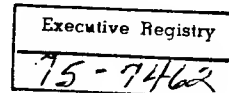


DD/A
15 JUL 1975

MEMORANDUM FOR: William E. Colby, Director of Central Intelligence

SUBJECT : Administrative Practices in the CIA

1. There are administrative practices in the CIA which I believe are in violation of Federal laws or regulations, or are unconscionable. I have attempted to secure corrections of these practices through administrative channels without success.

2. I have, therefore, written this report.

3. I am the Chief of the Position Management and Compensation Division, a position I have held for approximately eight years. I have worked in this division and predecessor organizations for over twenty years. I am familiar with position grading actions that have taken place over this time which have resulted in improper escalation of the grade and pay structure. Many of the upgrading actions were ordered by administrative officials with full knowledge of the facts and over objections of the Position Management organization. I believe there is a serious question as to the validity of these levels.

4. There is present interest in decentralization of position classification functions, which would permit a still greater escalation of the grade and pay structure. I believe that action should be taken to prevent such decentralization and to correct present errors.

5. The overtime regulations of this Agency, established in 1962, are, I believe, in violation of Federal law. I attempted to correct these regulations by a report I submitted through administrative channels on June 6, 1974. Nothing has been done.

6. The independent contracting system in the Agency, I believe, is a further violation of law. The practice this Agency follows is inconsistent with that followed in other agencies and inconsistent with the duties of many such independent contractors.

7. I have not taken this course of writing you directly without long and careful thought. I have become convinced, over many years, that no improvement and no correction of errors will ever take place without direction from the top.

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Chief

Position Management & Compensation Division

Attachment

ADMINISTRATIVE PRACTICES IN THE CENTRAL INTELLIGENCE AGENCY

Problem

1. The grade structure of the Central Intelligence Agency is excessively high in comparison to levels existing elsewhere in the government for comparable work. This is contrary to the principle of equal pay for substantially equal work included in the U.S. Code Title 5, Section 5101.

2. The overtime and premium pay regulations and practices of the Agency are contrary to the requirements of Title 5 of the U.S. Code, Section 5541 to 5545.

3. Individuals designated as Independent Contractors in the Agency appear in many cases to be employees under the requirements of Social Security and Internal Revenue legislation requiring the deduction of Social Security taxes.

Background Data

A. Position and Grade Structure

1. The position classification system of the Central Intelligence Agency is based on the general government system applied in other agencies. Before the Classification Act of 1949 the Agency was under the review and control of the Civil Service Commission. Upon the enactment of this law, which exempted the Agency, the Agency agreed to follow the government system voluntarily without external control.

2. Initially the grade structure established was comparable to those in other Agencies of equivalent functional responsibility and for a number of years, Classification Personnel frequently made comparisons with other agencies to insure comparable levels. In succeeding years, pressures from senior officials resulted in a gradual elevation of the structure. The primary emphasis of the Office of Personnel was to provide service to operating components. Efforts to hold grades to reasonable levels were challenged on the ground that service was not being provided. Since no external controls were imposed on the Agency, Classification Personnel were subject to pressures both from operating officials and from officials within the administrative structure. As a result, it was not possible for the Position Management Organization to control the escalation.

B. Overtime and Premium Pay

The present overtime and premium pay regulations of the Agency were established about 1962 and have remained substantially unchanged. The basic principle of these regulations is to require most employees to work eight hours of overtime without compensation before being compensated for any additional overtime, to ignore the requirement that all hours over eight in one day are overtime, and that all hours over forty in one week are overtime. These requirements are not consistent with the provisions of the U.S. Code.

C. Independent Contractors

Independent Contractors can be defined as individuals who receive a specified contract sum for providing certain services. In many cases in the Agency, Independent Contractors perform the same duties as Staff employees and are determined to be Independent Contractors from a statement in the contract. The purpose of the contract appears to be to avoid requirements for deducting taxes and Social Security and providing employee benefits. It appears that such employment may be contrary to Internal Revenue or Social Security laws.

Analysis of the Problem

A. Position Grade Structure

1. The grade structure of the Agency has resulted in part from the establishment of positions necessary to recognize the level of functional responsibility. It has resulted in part, also, from the wish to accommodate individuals who have been promoted without regard to the levels of their performance by the Career Service System. This System is composed of boards in the various offices whose functions include the assignment and promotion of employees by so-called competitive evaluation, in many cases without consideration of the levels of the positions they occupy or the levels of work they perform. In cases where they are assigned to positions below their grade level, there is often pressure to upgrade the positions to accommodate their grades and avoid personal rank assignment. The views of supervisors have frequently not been considered in promotion of employees.

2. As a result of the continuing pressure for upgrading of positions, grades of positions have changed with little change in position responsibility, as follows:

GS-11 and GS-12 positions have advanced to GS-13 and GS-14.

GS-12 and GS-13 positions have advanced to GS-14, GS-15, and GS-16.

GS-16's have become GS-17's or GS-18's.

3. The classification of higher grades has in some cases produced an inverse pyramid with more higher grades than lower grades or as it is sometimes called--more Chiefs than Indians. Efforts by the Position Management Organization to hold down grades or reduce them to reasonable levels have been ignored or overruled.

4. The results show, I believe, that Agency positions in many cases are overgraded one or two grades above elsewhere.

5. Agency officials are not satisfied with this grade difference over other Agencies. They continue to want more. They will not accept determinations that Agency grades are higher than elsewhere. In some cases they become angry when their grades are not raised; they threaten Position Management Personnel with being responsible for hamstringing their operations by forcing employees to resign to accept higher pay in industry. I believe this is partly the result of the inbred nature of the Agency--the emphasis on the belief that Agency employees are smarter than other people, more creative, more dynamic. Strange as this may seem, such beliefs have been pronounced by personnel officers.

6. Partly, I think, it is the result of lack of control, unwillingness on the part of senior officials to rock the boat. Office heads should be told to live with the grades they have and count themselves lucky. But they are not. There is interest at present in abolishing grade controls and giving office heads authority to set their own levels with only a budgetary control.

7. Deputy Undersecretary Crockett of the State Department made such a delegation of classification authority to major organizations of the Department of State in 1962. As a result, from 1962 to February 1971, there was a general escalation of levels in the Department of State which was completely inconsistent with levels of responsibility. An investigation was conducted and in 1971 position classification was again centralized and efforts began to correct the mistakes.

8. Surveys were conducted which resulted in reductions of class levels at FS01 and FS02 by 23% and FS03 by 6%. These are the higher pay levels of the Department of State, equivalent to the supergrade and GS-15 levels. The reductions were modest, intended to reduce personnel impact. The CIA has made much progress in the same direction. Apart from the fact that money is being wasted on such profligacy, the government and the general public deserve more honest treatment.

B. Overtime Practice

1. The overtime regulations were designed to discourage the use of overtime in the Agency. This was done about 1962 and was accomplished by arbitrarily changing the provisions of law to provide that certain types of overtime did not qualify for overtime pay. Included were the first eight hours of overtime performed by professional employees, all hours over eight in one day, and all hours over forty in one week if the two week pay period included no more than eighty hours of duty. These regulations are contrary to Title 5 of the U.S. Code.

2. The same result could have been accomplished by requiring supervisors to avoid authorized or directed overtime, without a violation of law.

3. At the time the present regulations were established they were objected to by PMCD on the ground that they were inconsistent with the Federal law, but the General Counsel's office determined that the Agency did not have to follow the Federal law (Per P.L. 110).

4. I submitted a report on the overtime practice in the Agency with a recommendation for changing overtime regulations to conform to general Federal regulations on June 6, 1974. The recommendation has never been approved (copy attached).

C. Independent Contractors

Under Federal law, Independent Contractors are individuals who undertake to provide certain service for a stipulated sum of money. In this Agency, however, Independent Contractors who are retired annuitants may be hired at a daily rate of pay which is equal to the rate of pay they received as employees and they may work in the Agency performing duties comparable to those performed as employees. A limitation of \$36,000 per year is placed on what these individuals may receive. This limitation appears to indicate doubts on the part of Agency officials as to whether they are actually employees as the \$36,000 limitation of Title 5 of the U.S. Code applies only to employees. It does not apply to an Independent Contractor who contracts to perform a certain service and is not an employee. It is as though the Agency follows the Alice in Wonderland system of defining Independent Contractors i.e., an Independent Contractor is just what we say it is, no more, no less.

PMCD Position

1. I believe that these errors should be corrected. This can be

done by issuing regulations to correct the overtime and independent contracting practices and by giving the Position Management and Compensation Division the authority to make a complete review of positions and take corrective action, possibly spaced over a period of time to avoid downgrading actions.

2. Promotions should be based on performance in positions legitimately graded, not on speculative potential as determined by a Career Service Board. Promotions should be under the control of supervisors who are the only individuals qualified to judge work performance and employees' grades should be limited to the grades of their positions.

Recommendations

1. That a regulation be issued to make overtime rules consistent with the Federal law and to correct the present practices relating to Independent Contractors.

2. That an investigation be directed of the grade structure of this Agency in comparison with other Agencies and that corrective action be taken.

3. That except for unusual cases, promotions to and within upper-grade and supergrade levels be frozen until the validity of those levels has been established.

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Chief

Position Management and Compensation Division

UNCLASSIFIED	CONFIDENTIAL	SECRET
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EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
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7	DDO				
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12	IG				
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SUSPENSE _____ Date _____

Remarks:

For review & comment to DCI



3637 (1-75)

Date

16 July